

HOUSE BILL REPORT

SHB 2360

As Passed House:
February 1, 2012

Title: An act relating to deposit and investment provisions for the prearrangement trust funds of cemetery authorities and funeral establishments.

Brief Description: Concerning deposit and investment provisions for the prearrangement trust funds of cemetery authorities and funeral establishments.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Rivers and Ryu).

Brief History:

Committee Activity:

Business & Financial Services: 1/17/12 [DPS].

Floor Activity:

Passed House: 2/1/12, 96-0.

Brief Summary of Substitute Bill

- Modifies the types of financial institutions in which cemetery authorities and funeral establishments may deposit prearrangement trust funds.
- Broadens the types of investments in which prearrangement trust moneys may be invested and applies the prudent investor rule to prearrangement trust funds.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Parker, Pedersen, Rivers, Ryu and Stanford.

Staff: Alexa Silver (786-7190).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Funeral and Cemetery Board.

The Department of Licensing (Department), through the Funeral and Cemetery Board (Board), is responsible for issuing certificates of authority to cemetery authorities, licensing funeral establishments, examining and auditing prearrangement trust fund records, and enforcing laws related to the funeral and cemetery industries.

Prearrangement Contracts and Trust Funds.

A prearrangement contract is a contract for the purchase of cemetery or funeral merchandise or services or an undeveloped grave to be provided at a future date. To enter into prearrangement contracts, a funeral establishment must obtain a certificate of registration, and a cemetery authority must obtain a prearrangement sales license from the Board.

Cemetery authorities and funeral establishments that enter into prearrangement contracts must maintain a prearrangement trust fund for the benefit of contract beneficiaries. Funeral establishments may join together in a "master trust fund." For each prearrangement contract, a funeral establishment must deposit at least 90 percent of the contract price in the trust fund, and a cemetery authority must deposit 50 percent of the contract price. Cemetery authorities and funeral establishments must file a financial report regarding the prearrangement trust fund with the Board on an annual basis. The Board examines prearrangement trust funds at least once every three years.

Authorized Depositories and Investments.

Cemetery authorities and funeral establishments must deposit prearrangement trust funds in a public depository or in a state- or federally-chartered credit union or invest them in instruments issued or insured by the federal government. For funeral establishments, the account must be insured. Prearrangement trust funds must be named as such and may not be used as an asset.

Prudent Investor Rule.

Washington's prudent investor rule requires a fiduciary investing property for the benefit of another to exercise the judgment and care under the circumstances that persons of prudence, discretion, and intelligence exercise in the management of their own affairs. The fiduciary must apply the total asset management approach, taking into consideration certain factors specified in statute. Within these limits, a fiduciary is authorized to acquire every kind of property and investment that persons of prudence, discretion, and intelligence acquire for themselves.

Summary of Substitute Bill:

Prearrangement trust funds for cemetery authorities and funeral establishments must be deposited in a federal- or state-chartered commercial bank, trust company, mutual savings bank, savings and loan association, or credit union. The trust moneys must be invested in accordance with the prudent investor rule, subject to the following restrictions:

- no officer, director, trustee, or relative of an officer, director, or trustee may borrow the funds;
- no funds may be loaned to the cemetery authority or funeral establishment or their agents or employees; and

- no funds may be invested with people or business entities operating in a business field directly related to cemeteries or funeral homes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(Information only) Stakeholders were encouraged not to attend this public hearing because this is essentially the same bill the committee heard last week with some minor changes.

(Opposed) None.

Persons Testifying: Representative Kirby.

Persons Signed In To Testify But Not Testifying: None.